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C O N F I D E N T I A L SECTION 01 OF 03 BANGKOK 002352

SIPDIS

STATE FOR EAP/MLS, NSC FOR WALTON

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TAGS: [PGOV](#) [PREL](#) [KDEM](#) [TH](#)

SUBJECT: THAILAND: ELECTION COMMISSION FLEXES MUSCLES ON MP
CONFLICT OF INTEREST, BUT TO LITTLE APPARENT EFFECT

REF: A. BANGKOK 2289 (THAI DOMESTIC POLITICAL ROUNDUP)

[1](#)B. BANGKOK 2207 (DEMOCRAT PARTY PREVAILS)

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Classified By: POL Counselor George Kent, REASON: 1.4 (B, D)

SUMMARY AND COMMENT

[1](#)1. (C) Over the course of the last three months, the Election Commission has indicted a total of 29 House members and 16 Senators, out of 480 and 150 respectively, from across the party spectrum for conflict of interest transgressions related to share holdings in media or telecom firms with state concessions. The House and Senate speakers must forward the cases to the Constitutional Court, which will then evaluate the merits of the indictments on a case-by-case basis. In the event the Constitutional Court upholds some or all of the indictments, the resulting wave of parliamentary disqualifications and subsequent by-elections could slightly adjust the balance of power in the House, though it is unlikely to trigger a change in government. Most analysts suspect, however, that thanks to deliberate foot dragging at every turn, the Constitutional Court is unlikely to render a verdict on the indictments before the next round of elections takes place (date as yet undetermined). Under this scenario, a new election would make the Election Commission's pending indictments -- with the specter of parliamentary disqualification -- a moot point. Even so, the watchdog action may force more transparency and care on future MP candidate asset declarations. End Summary and Comment.

THREE ROUNDS OF INDICTMENTS FOR INAPPROPRIATE SHAREHOLDING

[1](#)2. (SBU) On June 18, the Election Commission -- which enforces election-related laws, a broader mandate than just overseeing elections -- indicted 16 Senators for holding shares in media or telecom firms with state concessions, a direct violation of Articles 48 and 265 of the Constitution. Of the 16 Senators in question, eight were appointed and eight were directly elected (Note: Of the 150 Senators in total, 76 are elected, and 74 are appointed seats. Senators -- who are by law unaffiliated with political parties -- have

largely ceremonial positions. End Note.)

¶3. (SBU) On July 16, the Election Commission filed its next round of indictments against 13 Democrat party parliamentarians for the same violation. Deputy Prime Minister Suthep Thaugsuban was one of the 13 members indicted. He chose to step down in July rather than fight the indictment (Note: Suthep sold the shares in cable provider TrueCorp in 2008, after being elected but before joining the Cabinet in December 2008. End Note.) Suthep's brother, Thani Thaugsuban, won a by-election last month and replaced him in the House (REF B).

¶4. (SBU) Finally, on September 9, the Election Commission unveiled the last of the three waves of indictments, charging 16 MPs with running afoul of the same prohibition on owning shares in telecom firms with government concessions. The indictment involves members from five different political parties, some in opposition, and some in the coalition government: Puea Thai (8 members); Puea Paendin (3 members); Phumjai Thai (2 members); Pracharaj (2 members); and Chart Thai Pattana (1 member).

SLOW ROLL BY THE SPEAKERS

¶5. (SBU) According to Thailand's Constitution, the ball is now firmly in the Speaker's court on both the House and Senate side. The House and Senate Speakers must pass the cases to the Constitutional Court before the Court can evaluate the merits of the individual indictments. The Constitution does not require either Speaker to do so within a set period of time, however, and both seem to have exploited this fact.

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¶6. (SBU) On the House side of the ledger, House Speaker Chai Chidchob -- who is a member of the coalition Phumjai Thai Party -- has already drawn the ire of Election Commissioner Sodsri Sattayatham for not submitting the first round of House indictments to the Constitutional Court nearly two months after the fact. Senate Speaker Prasopsuk has similarly come under fire, though there are signs he may soon relent. Strategically speaking, Speaker Chai has no incentive to move the indictments forward though as any potential disqualifications would disproportionately effect his party's presence (32 seats), as well as the governing coalition's foothold in the Parliament.

¶7. (SBU) House Speaker Chai has tried to justify his glacial pace by suggesting that he should not act on the indictments until the Supreme Administrative Court had first ruled whether the Election Commission exceeded its mandate in pursuing the indictments (Note: The 16 indicted Senators have appealed their indictments to the Supreme Administrative Court, arguing that the Election Commission was not authorized to take action against them. Any ruling on the case would have implications for the House members as well. End Note.) Constitutional Law expert Dr. Prinya Thaewanarumitkul characterized Chai's approach to us September 14 as a "political tactic" designed simply to slow down the wheels of justice. According to Dr. Prinya, though the appeal had virtually no chance of success, it would provide Chai the political cover necessary to hold on to the indictments as long as possible.

CONSTITUTIONAL COURT

¶8. (C) Assuming the indictments eventually make their way to the Constitutional Court, there is little evidence to suggest the Court would be in more of a hurry to render a verdict than the Speakers were. According to Dr. Prinya, the Constitutional Court was not considered "neutral" by most observers; he cited decisions involving the dissolution of

the People Power Party (the Puea Thai predecessor), and the removal of former PM Samak from office as evidence of the court's bias. Prinya nevertheless considered the indictments against the Parliamentarians to be open and shut cases that even the Constitutional Court would have a hard time rejecting.

¶9. (C) In Dr. Prinya's estimation, barring an unlikely verdict rejecting the indictments, the next best thing the Court could do to help the government would be to drag its feet. As a result, Dr. Prinya's best guess was that the Court would delay issuing a verdict until after the next round of elections, by which point the disqualification penalty would be irrelevant, as the affected MPs would have already lost their seats (Note: MPs disqualified on such grounds are not barred from pursuing their seats again.)

POTENTIAL IMPLICATIONS

¶10. (SBU) In the event of a Constitutional Court decision to disqualify some or all the Parliamentarians under indictment, the Democrats and the ruling coalition would almost certainly be affected the most, and face the need/expense to win by-elections to maintain the current balance. Of the 28 House members currently under indictment, 17 are members of the governing coalition, including: 12 Democrats; 2 Puea Paendin members; 2 Phumjai Thai members; and 1 member of Chartthai Pattana. On the other hand, the opposition Puea Thai party and its partner Pracharaj have only 10 members facing indictment.

¶11. (C) Given this reality -- as well as the coalition's already fragile hold on power -- it appears the governing coalition is actively rooting for the process to take as long as possible. As it stands, the Democrats have only 173 seats to Puea Thai's 188; the effective pro-government majority in

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